

OFFICE OF THE GENERAL COUNSEL
Division of Operations-Management

MEMORANDUM OM 98-65

August 7, 1998

TO: All Regional Directors, Officers-in-Charge
and Resident Officers

FROM: Richard A. Siegel, Associate General Counsel

SUBJECT: Salting Cases Involving Blind Job Advertisements

In NLRB v. Midland Daily News, No. 97-1544, dated July 16, 1998, the U.S. Court of Appeals for the Sixth Circuit refused to enforce an investigative subpoena issued by the Acting General Counsel to a newspaper in a salting case involving a blind job advertisement. (Copy attached.) The Court found that, based on the facts of the case, the Board had failed to demonstrate a substantial state interest which outweighed the danger to the free speech rights of the newspaper and the anonymous advertiser. In view of this decision, when a Region has conducted an investigation in such a case and determined that the identity of the advertiser cannot be ascertained without a subpoena, the Region must submit the issue as to whether an investigative subpoena is appropriate to the Division of Advice.

If you have any questions, please contact me, your Assistant General Counsel or Deputy.

R.A.S.

Attachment

cc: NLRBU

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